

1 (Discussion off the record)

2 BY MR. COLE:

3 Q Ms. Jaramillo, in a brief off the
4 record colloquy, the question about your
5 correct address has come up.

6 What is your correct street address?

7 A 5237 Spring Run Avenue.

8 Q Let me show you a document which is
9 entitled, 'Press Broadcasting Company, Inc.'s
10 First Request for Production of Documents by
11 Rainbow Broadcasting Company," and ask you to
12 take a look at that.

13 A Any particular part?

14 Q The question is, have you ever seen
15 that document before?

16 A I don't believe so.

17 Q At any point in the last two months,
18 have you been requested by anyone to review
19 your files for documents which might be
20 responsive to questions presented, or documents
21 described in that request you're holding?

22 A No, I don't recall. I haven't been

1 asked to review my documents, no.

2 Q By anyone?

3 A No.

4 Q Let me show you a second document
5 which is entitled, "Separate Trial Staff's
6 First Request for Production of Documents," and
7 give a copy to your counsel as well.

8 I ask you to review that and I will
9 ask you the same set of questions about that
10 one.

11 (Witness examined document)

12 THE WITNESS: I don't recall having
13 seen this document before, no.

14 BY MR. COLE:

15 Q Have you been requested by anyone to
16 search your files for documents which might be
17 responsive to the questions presented in there?

18 A No.

19 Q You were a partner in Rainbow
20 Broadcasting Company?

21 A Yes.

22 Q You said you were a 10 percent

ATTACHMENT B

Letter, dated June 11, 1996
from Bruce A. Eisen
to Harry F. Cole, Esq. and David Silberman, Esq.

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

A NEW YORK LIMITED LIABILITY PARTNERSHIP

901 FIFTEENTH STREET, N.W.
WASHINGTON, D.C. 20005-2327

425 PARK AVENUE
NEW YORK, NY 10022-3598
(212) 836-8000
FAX (212) 836-8689

1999 AVENUE OF THE STARS
LOS ANGELES, CA 90067-6048
(310) 788-1000
FAX (310) 788-1200

(202) 682-3500
FAX (202) 682-3580

NINE QUEEN'S ROAD CENTRAL
HONG KONG
852-2845-8989
FAX 852-2845-3682

WRITER'S DIRECT DIAL NUMBER
(202) 682-3538

June 11, 1996

Harry F. Cole, Esq.
Bechtel & Cole, Chartered
1901 L Street, N.W.
Suite 250
Washington, D.C. 20036

David Silberman, Esq.
Office of General Counsel
Federal Communications Commission
1919 M Street, N.W.
Room 602
Washington, D.C. 20554

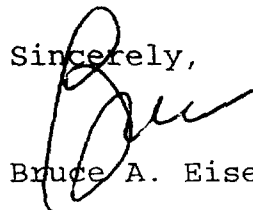
Re: GC Docket No. 95-172

Dear Harry and David:

During preparation of the Rainbow Broadcasting Company/Rainbow Broadcasting, Limited direct case, several documents were uncovered in Orlando, Florida that were not produced during document production and which should have been.

I only received these documents this morning, June 11, 1996, and I am providing them to you as soon as possible.

Sincerely,



Bruce A. Eisen

Enclosure
cc: Margot Polivy, Esq.

ATTACHMENT C

Letter, dated June 12, 1996
from David Silberman, Separate Trial Staff
to Bruce A. Eisen, Esquire

06/12/96

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

IN REPLY REFER TO:

June 12, 1996

Bruce A. Eisen, Esquire
Kaye, Scholer, Fierman, Hays & Handler, LLP
901 Fifteenth Street, N.W.
Suite 1100
Washington, D.C. 20005-2357

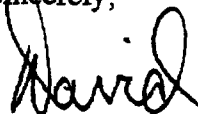
Re: *Rainbow Broadcasting Company*, GC Docket No. 95-172

Dear Bruce:

This is in response to your letter dated June 11, 1996, in which you state that during preparation of your direct case, several documents (all of them letters) were "uncovered" in Orlando that were not produced during document production and which you admit should have been. You further state that you only received the documents yesterday morning and are providing the documents to us as soon as possible. This is to request that you produce as soon as possible all of the incoming correspondence to which any of the letters you produced responds and any related correspondence on the same subject matter.

This request is without prejudice to any objections we might raise at the hearing to the introduction of any of these documents into evidence. Thank you.

Sincerely,



David Silberman
Separate Trial Staff

cc: Margot Polivy, Esquire
Harry F. Cole, Esquire

ATTACHMENT D

Letter, dated June 18, 1996
from Bruce A. Eisen
to David Silberman, Esq.

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

A NEW YORK LIMITED LIABILITY PARTNERSHIP

901 FIFTEENTH STREET, N.W.
WASHINGTON, D.C. 20005-2327

485 PARK AVENUE
NEW YORK, NY 10022-3898
(212) 636-8000
FAX (212) 636-8889

1999 AVENUE OF THE STARS
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(202) 682-3500
FAX (202) 682-3580

NINE QUEEN'S ROAD CENTRAL
HONG KONG
852-2848-8889
FAX 852-2845-3682

WRITER'S DIRECT DIAL NUMBER
(202) 682-3538

June 18, 1996

David Silberman, Esq.
Office of General Counsel
Federal Communications Commission
1919 M Street, N.W.
Room 602
Washington, D.C. 20554

Re: GC Docket No. 95-172

Dear David:

This is in response to your June 12, 1996 letter concerning Rainbow Broadcasting Company ("RBC") correspondence which I produced to you on June 11, 1996. The correspondence was produced under RBC's continuing discovery obligation and, as I had explained, was found during the course of our preparation of RBC's direct case. You have now asked for any "incoming correspondence" to which those documents respond as well as "any related correspondence on the same subject matter".

The tone of your letter suggests that RBC may have some hidden reason for producing these documents at a late date. It does not. The WRBW-TV offices have been moved at least twice during the past several years, and we have made every effort to uncover relevant documents, sometimes under difficult circumstances where past files were frequently located through luck. Many of the documents were found in packed boxes that had survived the office moves, the contents of which had not been placed into any discrete file.

The documents produced to you on June 11 were located in a box that had escaped review during the earlier stages of

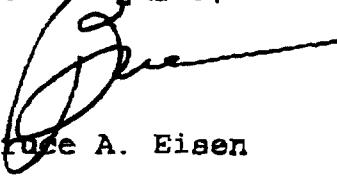
KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

- 2 -

discovery. No other relevant documents, including those to which you referred in your June 12, 1996 letter, were located, and despite a further effort specifically responsive to your request, this remains the case.

Here's hoping that the separate trial staff is able to maintain its objectivity in this proceeding, a matter which causes me increasing concern.

Best regards,



Bruce A. Eisen

cc: Margo Polivy, Esq.
Harry Cole, Esq.

ATTACHMENT E

Letter, dated June 19, 1996
from Margot Polivy
to David Silberman, Esq.

RENOUF & POLIVY

1532 SIXTEENTH STREET NW • WASHINGTON DC 20036 • (202) 265-1807

19 June 1996

David Silberman, Esquire
Office of the General Counsel
Federal Communications Commission
1919 M Street, N.W., Room 602
Washington, D.C. 20554

Dear David:

Last week I received my service copy of your letter of June 12 to Bruce Eisen. At that time I did not respond to it, although I found it very troubling, because it was circulated only to counsel and I intended to mention it to you privately. However, now that Harry Cole has seen fit to distribute it more widely, including copying Judge Chachkin, I have decided to respond in writing in the belief that it would be wrong to remain silent in the face of what you may have seen as a "trial tactic" but which went well beyond the bounds of professional civility and into the area of personal attack.

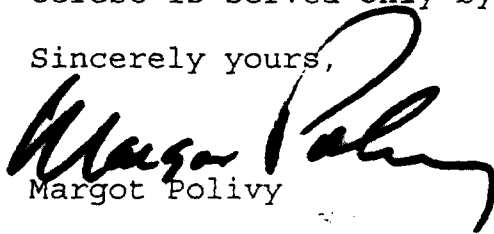
Did you mean to suggest that Bruce is a liar? Was it your suggestion that in complying with his formal undertaking at the time of document exchange to forward newly discovered responsive documents at the time of their discovery, Bruce was in fact both forwarding material previously unethically withheld and continuing unethically to withhold (or not look for) additional material which he could have forwarded? If these necessary implications in your letter were intended, do you have a substantial factual basis for such accusations of professional misconduct, which otherwise square not at all with your assertions of impartiality and, indeed, exceed the similar innuendo of opposing counsel, who is neither disinterested nor intended to function as an impartial participant?

I think you owe Bruce an apology. The biased position of the Separate Trial Staff toward Rainbow has been apparent throughout the preliminary phase of this proceeding; but this attack by innuendo on counsel distinguished in his

David Silberman, Esquire
19 June 1996
Page Two

years at the Commission and thereafter by his high ethical standards shows a disrespect for the process and for your own position in that process which should not go unremarked. As for the separate matter of the implications of your letter for trial of the merits, I can only hope that you will come to a recognition of the fact that your position as "impartial" Commission counsel is quite different from that of counsel for Press, whose client's interest is served only by destroying its competitor.

Sincerely yours,



Margot Polivy

cc: The Honorable Joseph Chachkin
Harry Cole, Esquire
Bruce Eisen, Esquire

ATTACHMENT F

Excerpt (page 10)
from RBC/RBL Exhibit 9
(identified for the record
but not received into evidence)

- 10
- D. the costs of this suit; and
- E. such other and further relief as the Court deems just and proper.

Jury Trial Demand

Plaintiffs hereby demand a trial by jury of all issues so triable.

Respectfully submitted,

Margot Polivy
RENOUF & POLIVY
1532 Sixteenth Street, N.W.
Washington, D.C. 20036

- and -

Malcolm Fromberg
Elsa Alvarez
FROMBERG, FROMBERG & LEWIS, P.A.
20801 Biscayne Boulevard, Suite 505
North Miami Beach, Florida 33180

- and -

Michael Nachwalter
Richard Alan Arnold
Kevin J. Murray
Scott E. Perwin
KENNY NACHWALTER SEYMOUR ARNOLD
& CRITCHLOW, P.A.
400 Miami Center
201 South Biscayne Boulevard
Miami, Florida 33131-2305
Telephone: (305) 373-1000

Dated: July __, 1991
Miami, Florida

By: _____
Michael Nachwalter
Florida Bar No. 099989

Attorneys for Plaintiffs

ATTACHMENT G

Notice of Appearance
in Joseph Rey et al. v. Guy Gannett Publishing Co. et al.,
Case No. 90-2554 CIV Marcus (U.S.D.C. S.D. Fl.),
filed December 21, 1990

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 90-2554 CIV. MARCUS

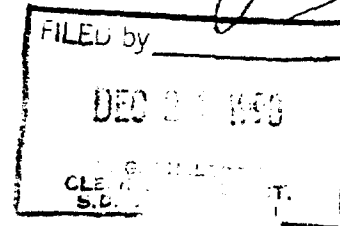
JOSEPH REY, LETICIA JARAMILLO,
and ESPERANZA REY-MEHR, as General
Partners of RAINBOW BROADCASTING
COMPANY, a Florida Partnership,

Plaintiffs,

vs.

GUY GANNETT PUBLISHING CO., Individually,
GUY GANNETT PUBLISHING CO., doing business
as GANNETT TOWER CO., GUY GANNETT PUBLISHING
CO., doing business as BITHLO TOWER COMPANY,
GANNETT TOWER COMPANY, Individually, MPE
TOWER, INC., Individually, and GANNETT TOWER
COMPANY and MPE TOWER, INC. as General Partner
and copartners doing business as
BITHLO TOWER COMPANY, a Florida General partnership.

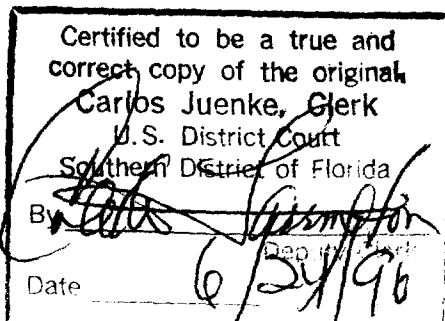
Defendants.



NOTICE OF APPEARANCE
OF CO-COUNSEL FOR PLAINTIFFS

NOTICE IS HEREBY GIVEN of the appearance of Margot Polivy,
Esquire, of the Law Firm of Renouf & Polivy, as Co-counsel for the
Plaintiffs, and hereinafter all pleadings directed to said
Plaintiffs shall be copied to: 1532 Sixteenth Street N.W.,
Washington, D.C. 20036.

I HEREBY CERTIFY that a true and correct copy of the foregoing
was hand delivered this 20th day of December, 1990, to: Donald
W. Hardeman, Jr., Esquire, Corlett Killian Ober Hardeman & Levi,
P.A., 116 West Flagler Street, Miami, Florida 33130.



FROMBERG, FROMBERG AND LEWIS, P.A.
420 South Dixie Highway, Third Floor
Coral Gables, Florida 33146
Telephone: (305) 666-6622

[signature]
Malcolm H. Fromberg

ATTACHMENT H

Excerpts from Transcripts of Hearing Sessions
held January 11, 14, 16 and 23, 1991
in Joseph Rey et al. v. Guy Gannett Publishing Co. et al.,
Case No. 90-2554 CIV Marcus (U.S.D.C. S.D. Fl.)

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 MIAMI DIVISION

4 JOSEPH REY, LETICIA JARAMILLO,) CASE NO. 90-2554-CIV-
5 and ESPERANZA REY-MEHR, as) Marcus
6 General Partners of RAINBOW)
7 BROADCASTING COMPANY, a Florida)
8 Partnership,)

9 Plaintiffs,)

10 vs.)

11 GUY GANNETT PUBLISHING CO.,)
12 Individually, GUY GANNETT)
13 PUBLISHING CO., doing business)
14 as GANNETT TOWER CO., GUY)
15 GANNETT PUBLISHING CO., doing)
16 businss as BITHLO TOWER COMPANY,)
17 GANNET TOWER COMPANY,)
18 Individually, MPE TOWER, INC.,)
19 Individually, and GANNETT TOWER)
20 COMPANY and MPE TOWER, INC., as)
21 General Partner and copartners)
22 doing business as BITHLO TOWER)
23 COMPANY, a Florida General)
24 partnership,)

25 Defendants.)

Miami, Florida
January 11, 1991
9:50 a.m.

EXCERPT
TRANSCRIPT OF HEARING
BEFORE THE HONORABLE STANLEY MARCUS

APPEARANCES:

PLAINTIFFS:

MALCOLM H. FROMBERG, ESQ.
ELSA ALVAREZ, ESQ.
420 South Dixie Highway
Third Floor
Coral Gables, Florida 33146

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APPEARANCES:

PLAINTIFFS: MARGOT POLIVY, ESQ.
1532 Sixteenth Stret, N.W.
Washington, D.C. 20036

DEFENDANTS: DONALD W. HARDEMAN, JR., ESQ.
RICHARD J. SUAREZ, ESQ.
116 West Flagler Street
Miami, Florida 33130

REPORTER: ROBERT A. RYCKOFF
Fifth Floor
301 North Miami Avenue
Miami, Florida 33120

1 1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 MIAMI DIVISION

4 JOSEPH REY, LETICIA JARAMILLO,) CASE NO. 90-2554-CIV-
5 and ESPERANZA REY-MEHR, as) Marcus
6 General Partners of RAINBOW)
7 BROADCASTING COMPANY, a Florida)
8 Partnership,)

9 Plaintiffs,)

10 vs.)

11 GUY GANNETT PUBLISHING CO.,)
12 Individually, GUY GANNETT)
13 PUBLISHING CO., doing business)
14 as GANNETT TOWER CO., GUY)
15 GANNETT PUBLISHING CO., doing)
16 businss as BITHLO TOWER COMPANY,)
17 GANNET TOWER COMPANY,)
18 Individually, MPE TOWER, INC.,)
19 Individually, and GANNETT TOWER)
20 COMPANY and MPE TOWER, INC., as)
21 General Partner and copartners)
22 doing business as BITHLO TOWER)
23 COMPANY, a Florida General)
24 partnership,)

25 Defendants.)

Miami, Florida
January 14, 1991
4:45 p.m.

TRANSCRIPT OF HEARING
BEFORE THE HONORABLE STANLEY MARCUS

APPEARANCES:

PLAINTIFFS: MALCOLM H. FROMBERG, ESQ.
ELSA ALVAREZ, ESQ.
420 South Dixie Highway
Third Floor
Coral Gables, Florida 33146

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APPEARANCES:

PLAINTIFFS:

MARGOT POLIVY, ESQ.
1532 Sixteenth Stret, N.W.
Washington, D.C. 20036

DEFENDANTS:

DONALD W. HARDEMAN, JR., ESQ.
RICHARD J. SUAREZ, ESQ.
116 West Flagler Street
Miami, Florida 33130

REPORTER:

ROBERT A. RYCKOFF
Fifth Floor
301 North Miami Avenue
Miami, Florida 33120

1 THE COURT: Thank you much. Have a seat.

2 State your name, please, for the record.

3 THE WITNESS: My name is Susan Harrison.

4 THE COURT: Thank you.

5 You may proceed, counsel.

6 MS. POLIVY: Your Honor, would you mind if I did my
7 direct from right here?

8 THE COURT: Wherever you are comfortable is fine.
9 No problem. That podium gets in a lot of people's way.

10 DIRECT EXAMINATION

11 BY MS. POLIVY:

12 Q Ms. Harrison, what is your occupation?

13 A I am a principle in the firm of Harrison, Bond And
14 Pecaro in Washington, D.C.

15 Q Could you tell the Court what the business of Harrison,
16 Bond & Pecaro is?

17 A Harrison, Bond & Picaro is a consulting firm which
18 specializes in the appraisal of media properties, that is,
19 radio and television stations and cable television systems.

20 Q How long have you been associated with Harrison, Bond &
21 Pecaro?

22 A Since November of 1986.

23 Q What is your position with them?

24 A I am a principle in the firm.

25 Q Prior to your association with the Harrison, Bond &

1 financier that was willing to buy a minority interest in
2 this station for \$4,000,000?

3 A That's correct.

4 Q So that fact played no part in you rendering any of your
5 initial opinions in this case, correct?

6 A Which fact now?

7 Q That he had a \$4,000,000 backer who wanted a minor share
8 in this?

9 A That's correct. I didn't know about it.

10 MR. HARDEMAN: Your Honor, I don't have any further
11 questions.

12 THE COURT: Any redirect?

13 MS. POLIVY: I have just a few. May have I have
14 just a second to confer with counsel?

15 THE COURT: Sure.

16 (Pause.)

17 REDIRECT EXAMINATION

18 BY MS. POLIVY:

19 Q Would it have made any difference to your analysis
20 whether or not you knew about Rainbow's financing?

21 A No.

22 Q Is that the kind of thing that you would normally take
23 into account in doing your market study?

24 A No.

25 Q You were asked by Mr. Hardeman whether Rainbow had any

1 hour.

2 THE COURT: For you to --

3 MR. HARDEMAN: For those.

4 THE COURT: Well, I am at your pleasure, whatever
5 you want to do. Then it's obvious you won't be able to
6 finish up with Mr. Edwards this evening so --

7 MR. HARDEMAN: With that in mind, Judge, I mean, we
8 can come back Wednesday.

9 THE COURT: If Edwards is a problem, I can also
10 schedule you another time for Edwards and perhaps take up
11 everything else other than that but --

12 MS. POLIVY: Your Honor, could we have just a
13 moment to confer with counsel?

14 THE COURT: You sure can.

15 (Pause.)

16 THE COURT: What's your pleasure, folks?

17 MR. HARDEMAN: I suppose we ought to come back
18 Wednesday, Judge, and get this accomplished. We will go
19 late tonight.

20 MS. POLIVY: Mr. Edwards has a problem Wednesday,
21 Thursday and Friday. He can do it tomorrow.

22 THE COURT: How do you want to -- you tell me what
23 you -- if we come back on Wednesday, how --

24 MS. POLIVY: We prefer to not go over until next
25 week.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

JOSEPH REY, LETICIA JARAMILLO,) CASE NO. 90-2554-CIV-
and ESPERANZA REY-MEHR, as) Marcus
General Partners of RAINBOW)
BROADCASTING COMPANY, a Florida)
Partnership,)

Plaintiffs,)

vs.)

GUY GANNETT PUBLISHING CO.,)
Individually, GUY GANNETT)
PUBLISHING CO., doing business)
as GANNETT TOWER CO., GUY)
GANNETT PUBLISHING CO., doing)
business as BITHLO TOWER COMPANY,)
GANNETT TOWER COMPANY,)
Individually, MPE TOWER, INC.,)
Individually, and GANNETT TOWER)
COMPANY and MPE TOWER, INC., as)
General Partner and copartners)
doing business as BITHLO TOWER)
COMPANY, a Florida General)
partnership,)

Defendants.)

Miami, Florida
January 16, 1991
5:30 p.m.

TRANSCRIPT OF HEARING
BEFORE THE HONORABLE STANLEY MARCUS

APPEARANCES:

PLAINTIFFS: MALCOLM H. FROMBERG, ESQ.
ELSA ALVAREZ, ESQ.
420 South Dixie Highway
Third Floor
Coral Gables, Florida 33146